

MISC. CIVIL APPLICATION NO. 920 OF 1994.

Date of decision: 8.1.1996.

For approval and signature

The Honourable Mr. Justice S. M. Soni

and

The Honourable Mr. Justice R. R. Jain

Mr. C.V. Prajapati, advocate for applicant.

Mr. B.N. Raval, advocate for respondent No.1.

Respondent No.2 served.

Mr. D.A. Bambhania, Addl.G.P. for respondent No.3.

1. Whether Reporters of Local Papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Coram: S.M. Soni & R.R. Jain, JJ.

-----

January 8, 1996.

Oral judgment (Per Soni, J.)

Applicant has filed this application for taking action under the Contempt of Courts Act for non-compliance of

the order dated 24.11.1993 passed by the Gujarat Primary Education Tribunal in Application No.335 of 1989. By the said order, the learned Tribunal directed the respondents to pay difference of salary to the applicant. The applicant has already retired on superannuation.

In view of our judgment in Misc. Civil Application No.1949 of 1994, such orders are executable as per the procedure provided in Civil Procedure Code. Moreover, contempt proceeding is not a substitute for execution as held by the Supreme Court in the case of the Alahar Co-operative Credit Service Society v. Sham Lal, reported in 1995 (2) GLH, 550. Therefore, we would not like to exercise our powers under the Contempt of Courts Act in the instant case. Hence the application is liable to be dismissed.

In the result, application is dismissed. Rule discharged. No costs.